



NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-255-LT-2, 50-155-LT-2, 72-007-LT, 72-043-LT-2, ASLBP No. 22-974-01-LT-BD01]

Order; Notice of Hearing

AGENCY: Atomic Safety and Licensing Board, Nuclear Regulatory Commission.

In December 2020, Entergy Nuclear Operations, Inc., Entergy Nuclear Palisades, LLC, Holtec International, and Holtec Decommissioning International, LLC (collectively Applicants) sought the Nuclear Regulatory Commission's (NRC) approval for the indirect transfer of control of the Palisades Nuclear Plant and Big Rock Point Site, including the general licenses for each facility's Independent Spent Fuel Storage Installation Entergy's licenses, to Holtec International.¹ They further sought the transfer of operating authority of the facilities from Entergy to Holtec so that Holtec can conduct licensed activities at these sites.² On February 24, 2021, the State of Michigan's Attorney General (Michigan Attorney General) filed a petition requesting a hearing on these license amendments sought by Applicants.³ On March 22, 2021 Applicants filed an answer arguing that the Michigan Attorney General failed to allege an admissible contention, and therefore its petition should be denied.⁴ On March 29, 2021 the Michigan Attorney General replied to Applicants' answer, contending that its contentions are, in fact, admissible.⁵

¹ Palisades Nuclear Plant and Big Rock Point Plant Consideration of Approval of Transfer of Control of Licenses and Conforming Amendments, 86 FR 8225 (Feb. 4, 2021) [Hereinafter Hearing Opportunity Notice]; Application for Order Consenting to Transfers of Control of Licenses and Approving Conforming License Amendments, at 1 [Hereinafter Application], attached (Encl. 1) to Letter from A. Christopher Bakken III, President and Chief Executive Officer, Entergy, to NRC Document Control Desk (Dec. 23, 2020) (ADAMS Accession No. ML20358A075).

² See Hearing Opportunity Notice; Application at 1.

³ State of Michigan Attorney General, Petition of the Michigan Attorney General for Leave to Intervene and for a Hearing (Feb. 24, 2021).

⁴ Entergy Nuclear Operations, Inc., Entergy Nuclear Palisades, LLC, Holtec International, and Holtec Decommissioning International, LLC, Answer Opposing the Michigan Attorney General's Petition for Leave to Intervene and Request for a Hearing (Mar. 22, 2021).

⁵ State of Michigan Attorney General, Reply in Support of the Michigan Attorney General's Petition for Leave to Intervene and for a Hearing (Mar. 29, 2021).

Per its authority under 10 CFR 2.1319(a) to handle Subpart M license transfer proceedings, on July 15, 2022, the Commission partially admitted the Michigan Attorney General's petition by limiting the scope of the hearing to four issues:

- 1) The reasonableness of the applicants' estimated 11-year timeframe within which the United States Department of Energy is to remove all of the spent fuel at Palisades;
- 2) the reasonableness of Applicant's decommissioning cost estimate falling below the NRC's decommissioning cost minimum formula amount calculated for the Palisades site;
- 3) the reasonableness of the applicants' 12% contingency level allocated to the radiological decommissioning, spent fuel management, and site restoration cost estimates; and
- 4) the reasonableness of the applicants' assertion that it will be able to provide additional financial assurance, if that proves necessary, to complete decommissioning and terminate the license.⁶

The Commission directed that the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel "[a]ppoint a single administrative judge . . . to serve as the Presiding Officer to take all necessary actions to compile, complete, and certify the hearing record, including presiding over any oral hearing."⁷

The Presiding Officer hereby schedules an oral hearing on the issues outlined above to commence on February 8, 2023, and to continue from day-to-day thereafter until such oral hearing is completed. This hearing shall take place at the NRC headquarters, 11545 Rockville Pike, Rockville, MD 20852, in the Hearing Room located on the 3rd Floor of the Two White Flint North building. The hearing will begin at 10:00 AM Eastern Standard Time (EST). The Board

⁶ See Entergy Nuclear Operations, Inc. (Palisades Nuclear Plant and Big Rock Point Site), CLI-22-08 (2021).

⁷ See id. at 135.

anticipates that the hearing will be completed by 5:00 PM EST on Friday, February 10, 2023.

Only authorized representatives or counsel for the Michigan Attorney General, Applicants, and the NRC Staff who have entered written notice of appearance pursuant to 10 CFR 2.314(b) will be entitled to participate.

The sole purpose of the oral hearing is to develop an evidentiary record and to “compile, complete and certify the hearing record” for the Commission for its use in determining the outcome of this case.⁸ While this oral hearing will be open to the public, no other representatives of the parties and no members of the public will be heard during the hearing.

It is so ORDERED.

For the Atomic Safety and Licensing Board.

Dated: January 23, 2023.

Michael M. Gibson,
Presiding Officer,
Administrative Judge.

[FR Doc. 2023-01568 Filed: 1/25/2023 8:45 am; Publication Date: 1/26/2023]

⁸ Id. at 135.